IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1716 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order mJJJJJ : NO

JJJJJJ

Criminal Procedure.

The respondent filed the complaint against the petitioners in the Court of Chief Judicial Magistrate, Vadodara on 26.2.1990 alleging that the petitioner had committed an offence punishable under section 420 of the Indian Penal Code.

According to the averments made in the complaint the respondent was carrying on the business of manufacturing machinery spareparts and had also been dealing in non-ferous metal and was also doing the job work in supplying gunmetal ingots. The petitioners who had been cited as accused in the complaint were carrying on business in the name and style of M/s.Bharat Iron Works in which they are partners. The complainant and the accused had been having business dealing for many years. The complainant used to supply gunmetal castings to the accused and he also used to do the job work for them. The complainant had known the accused for many years and the accused had earned his confidence. In the complaint, the complainant quoted various bills from 9.4.1987 to 17.9.1988 under which the complainant had supplied goods, the total value of which, according to the complainant, was Rs.4,97,755.33. The complainant then alleged that when he demanded payment from the accused the accused said that the complainant was pressing too hard and he was not going to lose his money and that they would make payment within one month. Then when the complainant again demanded payment, they said that they had no funds and they will make payment after three months. When they failed to make payment even thereafter the complainant alleged that the accused had committed breach of trust and had cheated him. Complainant therefore filed the complaint in the Court of learned Chief Judicial Magistrate, Vadodara which was sent for investigation u/s.156(3) of the Code of Criminal Procedure.

The petitioner thereupon filed the present petition for quashing the order of learned Chief Judicial Magistrate. It appears that initially notice pending admission was issued but the complainant did not enter appearance. Thereafter, rule was issued on 19.12.1990 and interim relief was granted restraining the police from proceeding further in the matter.

The complainant has not chosen to enter appearance. It is clear from the reading of the complaint that according to the complainant himself there had been long standing relations between him and the

accused. The dispute between the parties is of civil nature and it cannot be said that the complaint discloses any offence of cheating which can be said to have been committed by the petitioners. This petition is therefore allowed and the complaint which was registered as inquiry no.36 of 1990 in the Court of Chief Judicial Magistrate, Vadodara which was sent to the police for investigation under section 156(3) by the learned Chief Judicial Magistrate, Vadodara by his order dated 26.2.1990 is hereby quashed. Rule made absolute accordingly.

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m.m.bhatt